

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHNNY LINDEL LEWIS,

Petitioner,

v.

ELVIN VALENZUELA,

Respondent.

Case No. [14-cv-00071-EMC](#)

ORDER

Docket Nos. 35, 36

Petitioner has filed a motion for reconsideration of the order denying the petition for writ of habeas corpus. Docket No. 36. Petitioner states that his motion is made pursuant to Federal Rules of Civil Procedure 30 and 52(b). Neither of those rules has any bearing on the Court's denial of the petition for writ of habeas corpus; Rule 30 is a discovery rule, and Rule 52 pertains to findings of fact and conclusions of law issued in a bench trial. A motion for reconsideration under Rule 59(e) "should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the law." *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999) (citation omitted) (en banc). Petitioner has not shown newly discovered evidence, clear error, or a change in the law. The motion for reconsideration is **DENIED**. Docket No. 36.


Petitioner's request for an extension of the deadline to appeal the ruling on his motion for reconsideration is **DENIED** because it was premature in that the request for an extension of the deadline was filed before he ever saw the ruling on his motion for reconsideration. Docket No. 35. As the Court explained in its order filed November 23, 2015, a notice of appeal is not a difficult document to prepare, and often is less than one page long. The notice of appeal only needs to (a) provide Petitioner's name and state that he is the party taking the appeal, (b) designate the

1 judgment or order being appealed, and (c) name the court to which the appeal is taken, i.e., the
2 U.S. Court of Appeals for the Ninth Circuit. *See* Fed. R. App. P. 3(c)(1). The notice of appeal
3 must be signed and must be filed in this Court. If Petitioner wants to file a notice of appeal from
4 this order denying his motion for reconsideration, he may do so, but it should not take him more
5 than thirty days to prepare such a short document. The deadline by which to file a notice of appeal
6 is “30 days after entry of the judgment or order appealed from.” Fed. R. App. P. 4(a).

7 A certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c). This is not a case in
8 which “jurists of reason would find it debatable whether the petition states a valid claim of the
9 denial of a constitutional right and that jurists of reason would find it debatable whether the
10 district court was correct in its procedural [rulings]” in the order denying the petition for writ of
11 habeas corpus or in this order. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The denial of the
12 certificate of appealability is without prejudice to Petitioner seeking a certificate from the United
13 States Court of Appeals for the Ninth Circuit.

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15 **IT IS SO ORDERED.**

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17 Dated: December 15, 2015

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19 EDWARD M. CHEN
20 United States District Judge
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